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November 18, 1955

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Honorable Lane Dwincell, Governor
 State of New Hampshire
 Concord, New Hampshire

CONCORD, N.H.

Dear Governor:

Under date of November 15, 1955, you referred to the fact that the office of Speaker of the House of Representatives is now vacant, and that by law certain disbursements must be approved by the Speaker before they may be made, as for example, the expenses to which the House members of the Commission on Interstate Cooperation may be entitled. In such circumstances you inquire if some other legislative officer, or the Governor and Council, may approve such disbursements in lieu of the Speaker. We must answer in the negative.

Laws 1955, chapter 299, provides that members of the Commission on Interstate Cooperation shall serve without compensation. The members from the General Court, however,

"shall be entitled to reimbursement for their reasonable expenses when on official duties as such members, provided however said reimbursement expenses are approved by the speaker of the house of representatives for not more than three members on the commission from the house . . ."

Approval by the Speaker, then, is in unequivocal terms made a condition to the payment of such expenses.

The Constitution (Part Second, Art. 22d) provides that "the house of representatives shall choose their own speaker . . ." By Rule 11, Rules of the House,

"The Speaker shall have power to substitute any member to perform the duties of the chair, such substitution not to extend beyond one legislative day."

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These are the only provisions which I find bearing upon the identity of the person who may act as Speaker of the House. Importantly, I find no provision for the filling of the office or the performance of his duties should the Speaker resign during the recess or adjournment of the General Court.

Since the Speaker must approve the reimbursement of expenses before reimbursement may be made, and since there is no Speaker nor person legally entitled to perform the Speaker's duties, it follows that a disbursement cannot be made.

Of course, the members of the Commission from the House may submit their expense vouchers for approval to the next Speaker chosen by the House of Representatives.

Very truly yours,

Warren E. Waters
Deputy Attorney General

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